

**Notice of Allowability**

Application No.

09/639,859

Examiner

Chih-Min Kam

Applicant(s)

GIRSH, LEONARD S.

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/8/05.
2. ☒ The allowed claim(s) is/are 45-49,51,52,65-67,70,71,74,76,97,98 and 104-106.
3. ☒ The drawings filed on 11 March 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                |
| 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                 | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>4/7/05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                  |
|   | 9. <input type="checkbox"/> Other _____  |

Art Unit: 1653

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Paul Carango on April 7, 2005.

**Examiner's Amendments to the specification:**

Please replace the title dated October 1, 2001 with the following title:

**"Therapeutic Compositions for Treatment of a Damaged Tissue"**

Please replace the abstract filed August 16, 2000 with the following abstract on a separate sheet:

## ABSTRACT

The present invention relates to a therapeutic composition and uses thereof for treatment of damaged tissue, wherein the composition comprises at least one extracellular matrix compound, at least one polar surface active lipid, and a plurality of amino acids having a molar ratio which is characteristic of human breast milk protein; and further comprises a fatty acid, gamma-amino butyric acid or L-carnitine.

Art Unit: 1653

**Examiner's Amendments to the Claims:**

Cancel claims 53, 54, 68 and 69.

Claims 45, 71, 74, 76 and 104 have been amended as follows:

45. (Currently amended) An anabolic medicament for treating a damaged tissue, the medicament comprising:

- a) at least one extracellular matrix compound in an amount effective in the damaged tissue as anti-neo-inflammatory and anti-neo-angiogenetic agent, wherein said extracellular matrix compound is selected from the group consisting of a glycosaminoglycan, a collagen, cartilage, chondroitin sulfate, a glycoprotein, and a proteoglycan;
- b) at least one polar surface active lipid, wherein said polar surface active lipid is selected from the group consisting of a phospholipid, a glycolipid and a lipoprotein; and
- c) a plurality of amino acids having an alpha carbon, the amino acids being present at a molar ratio which is characteristic of human breast milk protein, and wherein no more than 10% of the amino acids are in D-form.

71. (Currently amended) The medicament according to claim 70, wherein said molecular bonding force is selected from the group consisting of van der Waals force and ionic interaction.

Art Unit: 1653

74. (Currently amended) The medicament according to claim 45 further comprising at least one of (a) a mineral; (b) a vitamin; (c) an antioxidant; (d) an omega-3 oil(~~s~~); (e) zinc;<sub>2</sub> (f) zinc oxide; (g) Vitamin A; (h) chondroitin sulfate; (i) cartilage; and (j) collagen.

76. (Currently amended) The medicament according to claim 48 further comprising at least one of (a) a mineral; (b) a vitamin; (c) an antioxidant; (d) an omega-3 oil(~~s~~); (e) zinc;<sub>2</sub> (f) zinc oxide; (g) Vitamin A; (h) chondroitin sulfate; (i) cartilage; and (j) collagen.

104. (Currently amended) The medicament of claim 45, wherein the damaged tissue is selected from the group consisting of skin, eye, liver, gastro-intestinal organ, kidney, and lung.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4.30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached at 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/639,859

Page 6

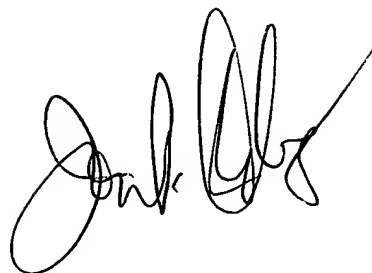
Art Unit: 1653

Chih-Min Kam, Ph. D. *CMK*

Patent Examiner

CMK

April 7, 2005

A handwritten signature in black ink, appearing to read 'Jon Weber', with a large, stylized initial 'J' and 'W'.

**JON WEBER**  
**SUPERVISORY PATENT EXAMINER**